

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEVEN WIERZBA,

Plaintiff,

No. C 09-03133 JSW

v.

QUALITY LOAN SERVICE, CORP., et al.,

Defendants.

**ORDER STRIKING PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION IN DISMISSED
CASE**

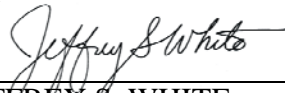
On April 6, 2010, this Court dismissed this matter, in part with leave to amend. Instead of filing an amended complaint, on April 30, 2010, Plaintiff filed a notice of appeal and brought the action before the Ninth Circuit Court of Appeals. On March 8, 2011, the Ninth Circuit Court of Appeals dismissed Plaintiff's appeal for lack of jurisdiction as this Court's order dated April 6, 2010 dismissing the action, in part with leave to amend, did not constitute a final order. To date, Plaintiff has not filed an amended complaint and filing the appeal divested this Court of jurisdiction.

Accordingly, the motion for a preliminary injunction filed on August 29, 2011 is improperly filed in this dismissed action. The Court STRIKES the motion and VACATES the hearing set for September 2, 2011. To the extent Plaintiff wishes to resurrect his claims, he must file a new action, which shall be related back to this case. Although this will be the third opportunity the Court has given Plaintiff to file a claim that comports with the Federal Rules of Civil Procedure and the Court's prior orders, in fairness to this *pro se* litigant, the Court grants

1 this one further opportunity for Plaintiff to state a proper claim in a new action relating back.

2 **IT IS SO ORDERED.**

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4 Dated: August 30, 2011

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7 JEFFREY S. WHITE
8 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

STEVEN WIERZBA,
Plaintiff,

Case Number: CV09-03133 JSW

CERTIFICATE OF SERVICE

v.

QUALITY LOAN SERVICE, CORP. et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 30, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Steven Wierzba
823 Paloma Ave
Oakland, CA 94610

Dated: August 30, 2011


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk